

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-0844V

Filed: July 28, 2017

UNPUBLISHED

SHARON SMITH as Administrator of  
the Estate of Paul Smith, deceased,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Uncontested;  
Causation-In-Fact; Influenza (Flu)  
Vaccine; Guillain-Barre Syndrome  
(GBS)

*John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.*

*Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On July 18, 2016, Paul Smith filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”).<sup>3</sup> Petitioner alleges that Paul Smith suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on August 19, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

<sup>3</sup> Paul Smith died after the petition was filed, and Sharon Smith was substituted as the petitioner. Sharon Smith is hereafter referred to as petitioner, and has filed documentation establishing that she is the legal representative of Mr. Smith's estate.

On July 28, 2017, respondent filed his Rule 4(c) report in which he states that he does not contest entitlement this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent states that "petitioner has satisfied the criteria set forth in the newly revised Vaccine Injury Table (Table) and the Qualifications and Aids to Interpretation (QAI)." *Id.* at 3-4. Respondent further agrees that the evidence shows that petitioner suffered GBS following the administration of a seasonal flu vaccine, and that the onset occurred within the time period specified in the Table. *Id.* Recognizing that petitioner may re-file his petition and be afforded a presumption of causation under the revised Table (see 42 U.S.C. § 300aa-16(b)), respondent will not contest entitlement to compensation in this case. *Id.*

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master